

**DURHAM, NORTH CAROLINA
MONDAY, JUNE 21, 1999
7:30 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chamber at City Hall with the following members present:

Mayor Nicholas J. Tennyson, Mayor Pro Tempore Howard Clement, III and Council Members Pamela L. Blyth, Cynthia Brown, Brenda B. Burnette, Tyrone Cox, Virginia Engelhard, Kimball Griffin, Mary D. Jacobs, Angela Langley, Erick Larson, Floyd McKissick, Jr. and Paul Miller.
Absent: None.

Also present: City Manager P. Lamont Ewell, City Attorney, Henry D. Blinder, City Clerk Margaret M. Bowers and Deputy City Clerk D. Ann Gray.

Mayor Tennyson called the meeting to order and asking for priority items from the City Manager, City Attorney and City Clerk.

PRIORITY ITEMS:

City Manager Ewell announced the Y2K Community Conversation Town Hall Meeting would meet on Tuesday, June 22, 1999 at 6:30 p.m., City Council Chambers, City Hall.

City Clerk Bowers announced that the Valid Protest Petition for Zoning Case P98-86 was withdrawn on June 18, 1999.

There were no priority items from the City Attorney.

Mayor Pro Tempore Clement acknowledged and praised the work of TROSA on Roxboro and Geer Streets.

Council Member Langley presented Certificates of Appreciation to the following persons for representing Durham as a member of Team North Carolina in the Special Olympics World Games: Richard Neil; Ashley Ravella; and Taylor Campbell.

Mayor Tennyson asked if any council member(s) or citizen(s) wanted to pull any item(s) from the Consent Agenda for discussion later in the meeting. The Mayor noted several revisions to the Consent Agenda.

MOTION by Council Member Larson seconded by Council Member Miller to approve the Consent Agenda as amended was approved at 7:37 p.m. by the following vote: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Absent At Time of Vote: Council Member Burnette.

[CONSENT AGENDA]

SUBJECT: Submission of Federal and State Capital Grant Application

MOTION by Council Member Larson seconded by Council Member Miller to commit to providing a \$755,000 local cash match and a \$650,000 local in-kind match for the purpose of purchasing 15 buses and constructing a new DATA operations, maintenance and administrative facility; and to adopt a resolution authorizing the filing of a grant application and execution of a grant agreement for Section 5309 federal funding with the Federal Transit Administration; and to adopt a resolution authorizing the filing of a grant application and execution of a grant agreement for Section 5309 federal and state funding with the North Carolina Department of Transportation was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None Absent At Time of Vote: Council Member Burnette.

SUBJECT: Final Approval of 1996 Housing Bond Funds - Durham Community Shelter for HOPE, Inc., \$300,000

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a Grant Agreement with Durham Community Shelter for HOPE (DCSH), Inc. in an amount not to exceed \$300,000 from 1996 Housing Bond Funds, and to make minor changes to the Grant Agreement and other related documents as are consistent with the Grant terms and the 1996 Housing Bond Program requirements approved by City Council; and to authorize the City Manager to execute an Interlocal Agreement with Durham County; and to determine and find that funds for this emergency housing project are not otherwise available, wholly or in part, from public or private lenders, upon equivalent or reasonably equivalent terms and conditions was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langely, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Durham City-County HOME Consortium (DCCHC) Agreement Renewal

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute the Joint Cooperation Agreement Durham City-County HOME Consortium (DCCHC) Renewal to be effective October 1, 2000 through September 30, 2003, was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langely, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Annual Insurance Plan, Fiscal Year 2000

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to maintain insurance in accordance with the current plan and specified changes

was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Deputy Finance Officer, Tax Collector/Collector of Revenue and Deputy Tax Collector Designation

MOTION by Council Member Larson seconded by Council Member Miller to adopt a "Resolution Designating Deputy Finance Officers"; and to adopt a "Resolution Designating Tax Collector/Collector of Revenue and Deputy Tax Collectors/Deputy Collectors of Revenue" was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Payment for Special Election Held on December 8, 1998

MOTION by Council Member Larson seconded by Council Member Miller to authorize payment in the amount of \$54,930.59 to the County of Durham Board of Elections for the City of Durham Special Election held on December 8, 1998, was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Resolutions in Support of the Community Development Block Grant (CDBG) Program and the Community Reinvestment Act (CRA)

MOTION by Council Member Larson seconded by Council Member Miller to adopt a resolution in "Support for Full Funding of the Community Development Block Grant Program in 2000" to adopt a "Resolution in Support of CRA Modernization Being Included in Any Final Financial Services Modernization Legislation" was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Consultant Contract for Design Development, Construction Documentation, and Contract Administration of Phase I of the Sandy Creek Environmental Education Center and the Sandy Creek Trail and Trailhead

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a contract with Hayes, Seay, Mattern, and Mattern, Inc. in the

amount of \$103,200, including a contingency of \$10,000 for the design development, construction documentation, and contract administration of Phase 1 of the Sandy Creek Environmental Education Center and the Sandy Creek Trail and Trailhead; and to authorize the City Manager to make changes to the Agreement that do not reduce the scope of services or increase the compensation was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Construction Contract for the Renovation of CR Wood, Crest Street and American Village Playgrounds

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a contract with Husky Construction Corporation in the amount of \$246,000, including a contingency of \$24,000, for the renovation of CR Wood, Crest Street, and American Village Playgrounds; and to authorize the City Manager to make changes to the Agreement that do not reduce the scope of services or increase the contract sum was approved at 7:37 p.m. by the following vote: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Interim License Agreement with Interpath Communications

To authorize the City Manager to execute an interim license agreement with Interpath Communications, Inc. to install fiber optic cable in designated rights of way.

MOTION by Council Member Larson seconded by Council Member Miller to refer this item to the administration was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Contract ST-199 - Central Durham Traffic Circles and Sidewalks

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a contract in the amount of \$72,881 with White Oak Construction Company, Incorporated for Contract ST-199; and to authorize the expenditure of \$52,000 from the Sidewalk Replacement Account and \$9,300 from the Traffic Calming Account was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Annual Certification of Firemen

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to certify the attached roster and to execute the "1998/99 Annual Certification of Firemen" form for the North Carolina Firemen's Pension Fund was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: 1999 Annual City Auction - Resolution and Contract Extension

MOTION by Council Member Larson seconded by Council Member Miller to adopt a "Resolution Authorizing the Annual City Auction" to be held on Saturday, November 6, 1999 at 10:00 a.m.; and to authorize the City Manager to extend the contract with Wester Auction & Realty in the sum of 5.45% of the gross sales for auctioneering services for the 1999 annual City auction was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Bid Report - Month of March 1999

MOTION by Council Member Larson seconded by Council Member Miller to approve and record in the minutes bids and items which were acted upon by the City Manager during the month of March 1999 was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

[See Attachment #1 for itemized bid report]

SUBJECT: Bid Report - Month of April 1999

MOTION by Council Member Larson seconded by Council Member Miller to approve and record in the minutes bids and items which were acted upon by the City Manager during the month of April 1999 was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

[See Attachment #2 for itemized bid report]

SUBJECT: Bid - Seventy-five Foot Quint Aerial Pumper - Sutphen Corporation

To accept the bid from the Sutphen Corporation in the amount of \$495,568.84 for providing the City with a 75 foot Quint aerial pumper was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Scrap Tire Disposal/Recycling Services - B. T. Sanitation, Inc.

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a contract with B. T. Sanitation, Inc. (doing business as Central Carolina Tire Disposal) in the amount of \$163,160 for providing the City with scrap tire disposal/recycling service was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Bids - Copier Rental Service Plan - Ikon Office Solutions

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a contract with Ikon Office Solutions in the estimated total of \$419,580 for providing the City with a copier rental service plan for a period of thirty-six (36) months was approved at 7:37 p .m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

**SUBJECT: Bids - Estimated Annual Requirements for Liquid Aluminum Sulfate
General Chemical Corporation**

MOTION by Council Member Larson seconded by Council Member Miller to accept the bid from General Chemical Corporation in the amount of \$260,500 for furnishing the City with its estimated annual requirement for liquid aluminum sulfate was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

**SUBJECT: Bids - Front End Loading Refuse Collection Vehicles - Carolina
Environmental Systems, Inc.**

MOTION by Council Member Larson seconded by Council Member Miller to accept the bid from Carolina Environmental Systems, Inc. in the amount of \$303,796 for providing the City with two front-end loading refuse collection vehicles was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members

Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Stop Signs - Ridgewood Subdivision

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of stop signs at the following locations:

- a. Duxford Court at Cloverdale Drive, west corner;
- b. Ledgerock Way at Cloverdale Drive, west corner;
- c. Saddle Creek Lane at Gladstone Drive, north corner;
- d. Cloverdale Drive at Gladstone Drive, south corner;
- e. Tumlin Court at Gladstone Drive, north corner; and
- f. Tarrywood Court at Gladstone Drive, north corner.

was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Sidewalk - Miami Boulevard (West Side) from Drew Street to Juniper Street; Miami Boulevard (East Side) from North Property Line of Tax Map 145-4-18 to Harvard Avenue and Miami Boulevard (West Side) from Liberty Street to East Main Street - Setting Public Hearing to Consider Ordering Improvements under the Enabling Act Authority

MOTION by Council Member Larson seconded by Council Member Miller to adopt a resolution setting a **public hearing on Monday, July 19, 1999** to consider ordering sidewalk on Miami Boulevard (West Side) from Drew Street to Juniper Street; Miami Boulevard (East Side) from North Property Line of Tax Map 145-4-18 to Harvard Avenue and Miami Boulevard (West Side) from Liberty Street to East Main Street was approved at 7:37 p.m. by the following vote: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Absent At Time of Vote: Council Member Burnette.

SUBJECT: City Council Minutes - City Clerk's Office

MOTION by Council Member Larson seconded by Council Member Miller to approve the official minutes of the following City Council Meetings:

March 15, 1999 - Regular Meeting
April 5, 1999 - Regular Meeting
May 3, 1999 - Regular Meeting
May 20, 1999 - Special Meeting.

was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

[GENERAL BUSINESS AGENDA]

SUBJECT: Sewer Main - Whitfield Road from Morreene Road to Turnage Heights Outfall (Mini Assessment Roll)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

a. Property of Leon E. and Kathryn Meyers

MOTION by Council Member Larson seconded by Council Member Miller to find that the property of Leon E. and Kathryn Meyers, identified as Tax Map #758-1-26, Whitfield Road, Lot 2, has not benefited at this time from the sewer main improvement and to relieve the assessment in the amount of \$8,451.80 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property receive sewer service (in accordance with City policy) was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

b. Meyers Family Investments, LLC

MOTION by Council Member Larson seconded by Council Member Miller to find that the property of the Meyers Family Investments, LLC, identified as Tax Map #758-2-18, Whitfield Road, Lot 2, vacant, has not benefited at this time from the sewer main improvement and to relieve the assessment in the amount of \$1,050.00 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property receive sewer service (in accordance with City policy) ; and to find that the property of the Meyers Family Investment, LLC, identified as Tax Map #758-1-20, Lot 6, vacant, has not benefited at this time from the sewer main improvement and to relieve the assessment in the amount of \$1,050.00 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property receive sewer service (in accordance with City policy) was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Curb, Gutter and Paving - Yosemite Circle from Castell Drive East to Through Cul-de-sac (Mini Assessment Roll)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Miller to find that the property of Ronald and Janie J. McMillan, identified as Tax Map #536-3-6, 815 Yosemite Circle, Lot 4, has benefited from the improvements and to confirm the assessment in the amount of \$2,746.40 was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Members Burnette.

SUBJECT: Water and Sewer Laterals - Yosemite Circle from Castell Drive East to Through Cul-de-sac (Mini Assessment Roll)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Miller to find that the property of Ronald and Janie J. McMillan, identified as Tax Map #536-3-6, 815 Yosemite Circle, Lot 4, has benefited from the improvements and to confirm the assessment in the amount \$630.00 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Sewer Main - Comfort Lane (Formerly Neal Road) from East Property Line of Tax Map 757-2-8 to South Property Line of Tax Map 756-1-1 (Mini Assessment Roll)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

a. Properties of Comfort Properties, LLC

MOTION by Council Member Larson seconded by Council Member Miller to find that the property of Comfort Properties, LLC, identified as Tax Map #757-2-10, 3925 Comfort Lane, part of Lots 37 and 38, has not benefited at this time from the sewer main improvement and to relieve the assessment in the amount of \$3,495.28 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property receive sewer service (in accordance with City policy); and

To find that the property of Comfort Properties, LLC identified as Tax Map #757-2-12A, 3929 Comfort Lane, part of Lots 10 and 36, has not benefited at this time from the sewer main

improvement and to relieve the assessment in the amount of \$3,217.38 with the provision that a future charge will be due and payable at the prevailing rate should the property receive sewer service (in accordance with City policy) was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

b. Property of George W. Danser

MOTION by Council Member Larson seconded by Council Member Miller to find that the property of George W. Danser, identified, as Tax Map #756-1-3A, Comfort Lane, part of Lot 1, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$1,925.00; and to find that the property of George W. Danser, identified as Tax Map #756-1-2, Comfort Lane, part of Lot 1, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$2,150.93 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Sewer Main - Ellis Road from Brooks Road to North Property Line of Tax Map 564-1-7 (Mini Assessment Roll)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Miller to find that the property of Linda C. Hare, Laura A. Ferrell, and Mary Pridgen, Trustees, identified as Tax Map #557-1-13, 1016 Ellis Road, Lots 55 and 56, has benefited from the sewer main and to confirm the assessment in the amount of \$875.00 was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Water Main - Riddle Road from Ellis Road to West Property Line of Tax Map 566-2-27 (Mini Assessment Roll)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Miller to find that the property Vivian Troy and Helen E. Payne, identified as Tax Map #557-3-2, 2523 Riddle Road, Lots 11, 12, 13, and 14 has benefited from the water main improvement and to confirm the assessment in the amount of \$1,100.00 was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox,

Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Sewer Main - East Rockway Street from South Property Line of Tax Map 740- 2-5 to South Property Line of Tax Map 740-1-7 under Enabling Act Authority

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Miller to adopt a resolution ordering sewer main improvements on East Rockway Street from south property line of Tax Map 740-2-5 to south property line of Tax Map 740-1-7 under the Enabling Act Authority was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Voluntary Annexation Petition - Pagehurst

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

a. FY 1999-14 Pagehurst Annexation Petition

MOTION by Council Member Larson seconded by Council Member Miller to receive citizens' comments concerning the annexation of Pagehurst, which consists of 62.45 acres and is non-contiguous to the City limits, located in the southwest quadrant of Lumley Road and Page Road; and

To adopt "An Ordinance Annexing to the City of Durham An Area Hereinafter Described Which is Not Contiguous to the Present Corporate Boundary of the City of Durham, Under the Provisions of NCGS 160A-58 Et. Seq. (Pagehurst)" was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

b. Supplemental Fire Protection - Contract with Bethesda Volunteer Fire Department, Incorporated

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a half-base contract with Bethesda Volunteer Fire Department,

Incorporated to provide supplemental fire protection service to the Pagehurst area of the City was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Zoning Case: P98-86, Bristol-Cardiff, Capital, East of Guess Road and South of Horton Road (Continued from the June 7, 1999 City Council Meeting)

Applicant: Bristol-Cardiff Capital, L.L.C.

Location: 8.83 acres east of Guess Road and south of Horton Road (Tax Map 313-1-7, 7A, 7B, 7C, 8, 9, 10 and 11)

Request: Rezoning from R-8 (Residential 8 District) and R-10 (Residential 10 District); E-B (Eno Basin Watershed Protection Overlay District) to MU(D) (Mixed Use District with a Development Plan); E-B (Eno Basin Watershed Protection Overlay District)

Zoning Committee's Recommendation and Vote: (Revised Plan - Courtesy Review on June 17, 1999, by Zoning Committee Vote - 7/0)

City Manager's Recommendation: Approval

Note: Valid Protest Petition was withdrawn on June 18, 1999.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Attorney Jack Markham, representing the applicant, briefed council on the proposed request and changes made. He stated the developer has agreed to dedicate to the City of Durham over two acres as a public park along Warren Creek and the dedication included a trail. He also noted that the valid protest petition was withdrawn.

No one spoke in opposition. The public hearing was declared closed by the Mayor.

The staff noted that roadway improvements, including all other requirements, have been met by the applicant on the revised plan.

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out R-8 and R-10; E-B and placing same in and establishing same as MU(D); E-B, was approved at 7:57 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: Zoning Case P99-12, Duke Energy Corporation, East Side of Garrett Road,

South of King Charles Road & North of NC 54

Case: P99-12

Applicant: Duke Energy Corporation

Location: 13 acres on the east side of Garrett Road, south of King Charles Road and north of NC 54 (Tax Map 426-1-1, 18, 19, 20, 20A)

Request: Rezoning from R-10 (Residential 10 District) to R-20(D) (Residential 20 District with a Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-10 and placing same in and establishing same as R-20(D).

Zoning Committee's Recommendation and Vote: Denial (3 Ayes, 4 Nays)

City Manager's Recommendation: Approval

City Attorney Henry Blinder informed the council that Case P99-12 was a request for a rezoning to a general use zone to allow the multiplicity of uses which might in the future include a tower. He noted if the rezoning is approved, any decision on the merits of whether a tower would or would not be allowed would be the subject of a future special use permit proceeding before the Board of Adjustment. Attorney Blinder noted under federal law as long as the applicant meets FCC standard for electro-magnetic radiation the city council may not consider testimony regarding the radiation affects of the tower.

Mayor Tennyson recognized staff to make a presentation.

Shelia Stains-Ramp of the Planning Department made the following presentation:

This rezoning request by Duke Energy proposes to change the zoning of their substation site between Garrett Road and Hope Valley Road from R-10 to R-20(D). The 13 acre site has its sole access from Garrett Road, and the development plan shows that the existing wooded buffering area would remain undisturbed, with additional planting to be provided where there are currently open areas.

This is a rezoning/land use decision, not a special use permit proceeding. If the rezoning is approved, the applicant will still need to file for a special use permit, which will be reviewed by the Board of Adjustment operating in a quasi-judicial mode. The decision about whether a tower is an appropriate specific use at the site is made then.

Please keep in mind the standard advice that all uses allowed in the zone should be considered in making your recommendation, though the Development Plan illustrates one particular use, range of uses. It is recognized that the likelihood of standard residential being developed on the substation site is limited, at least while the substation is still in operation, and that the footprint shown on the development plan will fit few other uses.

The following issues would typically be addressed during the minor special use permit proceedings at the BOA:

The applicant must provide documentation at the time of BOA consideration that the power density levels of the proposed antenna/tower assemblage do not exceed federally approved levels or the American National Standards Institute (ANSI) standards, whichever provides the stricter requirements. If the antenna/tower assemblage meets these standards the Board of Adjustment cannot, under federal law, consider the potential health impacts from electromagnetic radiation. Similarly, the Council should not consider these health impacts tonight, nor should testimony be taken on the subject.

Note that the use permit is required for the tower, although a great deal of supporting information relates to the antenna. ‘Concealed’ or ‘stealth’ towers and equipment are permitted in all zoning districts with only site plan approval. Antenna locations on transmission towers, taller buildings, water towers, church steeples, and other taller structures are also permitted.

Documentation is required at the BOA hearing that no suitable existing facilities within the coverage area are available to the applicant, whether through co-locations on other towers, or through use of other structures.

There is also the requirement that this facility provide for at least one co-locating antenna.

Among the positives supporting the zoning change:

There is a substantial amount of R-20 zoning in the area, mostly west and northwest of the site.

Relative to the proposed use:

This site is already used for a substation, with transmission lines and towers traversing it.

There is difficulty in locating tower sites in suburban areas that don’t have visual impacts on surrounding neighborhoods.

The tower proposed is a monopole, not a lattice tower, and so typically viewed as less of an imposition on the landscape and surrounding area.

The ordinance requirement of a 100’ forested area (or a Class 5 buffer where the forested area isn’t sufficient and replanting is required) is met and for the most part exceeded on the site.

Also per ordinance requirements, the proposed tower location is set back from all property lines by a distance equivalent to its 190’ height; in fact, it is set back farther than that - more than 400’ from the property line of the lots development to the east, which are further separated by significant lot depth to accommodate the required stream buffer for an intermittent stream running across the rear of those lots. The tower is nearest to the lots to the west, 225’.

On the whole, staff felt that a site already used for a power sub-station and criss-crossed with transmission lines and towers, well-buffered on site and additionally buffered to some degree to the west by deep lots with stream buffers, with R-20 zoning and development existing to the west and northwest, and with open space and institution/commercial uses further to the south and west, was a reasonable location for the use, and we recommend approval.

Ms. Sheila Stains-Ramp stated the Zoning Committee recommended denial by a split vote. They had three recommendations for approval and four voted to recommend denial.

The Mayor asked if there were questions from the Council.

Mayor Tennyson opened the public hearing.

Proponents

Jim Cain, representing the applicant, thanked the administration for clarifying the purpose of the public hearing. He noted the request was for rezoning from R-10 to R-20 and not a request for the approval of a telecommunications tower. Mr. Cain stated that Duke wanted to be upfront with the community and the council in letting it be known that Duke is trying very hard to work with the wireless industry and with the community in Durham to help find locations for a telecommunication facility. Mr. Cain stated they believe Duke had found such a site and he briefed the council on the location. He noted before they can request tower approval they would need to rezone/up zone the property to R-20 to be considered under the ordinance.

Mr. Cain distributed to the council a booklet containing the zoning map, site plan, as well as photographs. Mr. Cain made a brief presentation on this material. [Please refer to Tabs 1-5 of the booklet].

Mr. Cain asked the council to support the City Manager's recommendation and approve the rezoning request.

Opponents

Richard Ohmann, representing the residents of Hope Valley Green and St. Lawrence Homes, briefed council on the adjacent neighborhood. He noted the property owners fully understood in advance of the location of the present substation but do not appreciate the fact that the skyline will be debilitating by the height of a 200 foot tower. He stated the rezoning is a step in process which he characterized as a "slippery slope" because the residents have no ability to consider what comes after this action tonight. Mr. Ohmann noted the tower did not belong in a residential area and he suggested examining stealth locations that could be used. Also, he noted the appearance of the tower and effects on property values. He stated the zoning did not need to be changed to R-20.

Jim Randall, resident of Hope Valley Green, noted the residents of Hope Valley Green asked AT&T and Duke representatives specific questions that were pretty straight forward and honest; however, he noted the answers to their questions were not answered regarding child safety; appraisals; resales; loss of equity to homes; and consideration of alternative sites. Mr. Randall asked the council to please consider the community's efforts.

Veronica McClure, resident of Hope Valley Green, raised concern with the short notification they received on this request. Ms. McClure spoke in opposition to the request. She noted if the tower is located on this property it will decrease their property values. She noted they were not shown pictures for their neighborhood and the pictures shown by the applicant are

neighborhoods where the tower can't been seen through the trees.

Rebuttal

Jim Cain, representing the applicant, noted many of the questions asked by the opponents will be answered once they appear before the Board of Adjustment requesting the permit for the approval of construction of a tower. With regard to property values, he noted they will have and presently have as evidence from appraisals that there is no impact to property values from towers.

At this time, Mr. Cain provided pictures showing what the tower would look like based on computer enhancements at various points in the neighborhood. [Pictures Shown - 1) A view from the intersection of Hope Valley Road and Woodcroft Parkway; 2) A view from where Malvern Road and King Charles intersect; and 3) A view from the entrance to the substation at Garrett Road right in front of the daycare center.

Mr. Cain asked council to listen to the needs of the community and neighbors, but also he noted this was about as good a site as one can find in the city limits.

Mayor Tennyson closed the public hearing. The Mayor asked Council to be mindful that the matter this evening was a zoning case - considering a change of zoning with a full range of uses.

Council Member Blyth moved the item and stated she would be voting against approval because she felt it would be an inappropriate land use.

The motion was seconded by Council Member Larson.

Council Member McKissick stated the zoning classification being requested was not appropriate.

Council Member Cox informed his colleagues that he currently is building a home in a subdivision very close to Hope Valley Green but felt he had no conflict of interest. He noted he would be voting against the request because it was not consistent with the pattern in terms of land use in the neighborhood.

Council Member Larson noted personally he felt towers are an abomination, but people carry cell phones and the system requires they have towers. Council Member Larson asked the applicant the height of the transmission towers that Duke Power currently uses for electrical transmission in the area.

Jim Cain stated around 100 feet near the substation.

Mayor Pro Tempore Clement asked if an alternative site was available for this tower.

Jim Cain stated based on what they hear from AT&T and Duke Energy there are no other locations with adequate setbacks, adequate buffers, and adequate zoning, that provide coverage for these areas that are shown in white behind Tab 4. He noted the closest site that was a candidate is the existing GTE tower that stands 210 feet; however, it would not provide

coverage in the Hope Valley Green/Garrett Road neighborhoods that AT&T seeks to provide coverage.

Mayor Pro Tempore Clement asked Mr. Randall, one of the opponents, to restate his comments regarding other possible sites.

At this time, the Mayor Tennyson reminded his colleagues this was a zoning hearing not a tower approval.

Jim Randall, a resident of Hope Valley Green, stated they have had some civil engineers and some research persons from four different real estate firms looking at alternative sites. He noted they did look at some areas where the new mall will be located and areas right behind the Woodcroft Shopping Center.

A substitute motion was made by Mayor Pro Tempore Clement to defer a decision on this matter until the council acting through its staff has exhausted all possible resources to determine whether or not there is an alternative site.

Mayor Tennyson stated it was his understanding that there are certain constraints under which the Telecommunications Act of 1996 places local government and the technical data that is being sought is certainly going to come into play at some point. The Mayor stated his preference would be that the Council act tonight on this matter and not defer.

The substitute motion failed due to the lack of a second.

Council Member Langley noted she shared the same concern as noted by the Mayor Pro Tem; however, she did not want to leave this matter unresolved due to the residents.

Council Member Jacobs raised concern with the conflicting information stated by the proponent and opponents regarding property values.

Sheila Stains-Ramp, of the City/County Planning Department, stated the administration could not provide any input on the conflicting testimony relative to property values.

Council Member Larson asked the applicant to comment on providing coverage with stealth towers.

Jim Cain stated trying to find a 190 foot stealth object of any sort is very difficult.

A representative from Duke stated on their particular property he did not think a stealth application would be adequate due to the elevation.

Again, Council Member Larson noted his feeling regarding towers; however, he stated he did not really see a problem with the request before the council this evening.

Mayor Tennyson asked the administration if there was anything to suggest that R-10 was not an appropriate zoning for this area.

Sheila Stains-Ramp noted what has been developed in the area has been developed under R-10 including a currently developing subdivision.

Mayor Tennyson noted as a zoning matter it would not be consistent with council policy to zone this for a lower use.

MOTION by Council Member Blyth seconded by Council Member Larson to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-10 and placing same in and establishing same as R-20(D) **FAILED** at 8:55 p.m. by the following vote: Ayes: Council Members Griffin and Larson. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Jacobs, Langley, McKissick and Miller. Absent: None.

SUBJECT: Zoning Case P98-13, Estates Properties, LLC, East Side of Barbee Road, Adjacent to I-40

Case: P98-13

Applicant: Estates Properties, LLC

Location: 47.13-acre site on the east side of Barbee Road, adjacent to I-40, identified as Tax Map 521, Block 1, Lots 8B, 8C, and 8D; Tax Map 548, Block 1, Lots 17G partial, 23 partial, 37, 38, 39, and 40 partial

Request: Rezoning from R-20 (Residential 20 District), I-1 (Industrial Park District), and I-2 (Light Industrial District); F/J-B and MTC to PDR 5.94 (Planned Density Residential District at 5.94 units per acre); F/J-B and MTC.

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20, I-1, and I-2; F/J-B and MTC and placing same in and establishing same as PRD 5.94; F/J-B and MTC.

Zoning Committee's Recommendation and Vote: Approval, subject to agreement with staff recommendation (7-0)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

A representative for the applicant spoke in support of the request. The representative briefed council on the proposed request.

No one spoke in opposition. Mayor Tennyson closed the public hearing.

Council Member Blyth stated she would be voting against this request. She noted in the past residents have attended the City Council Meetings repeatedly noting the increased density; traffic; and impact on the schools in this area only to see zoning case after zoning case be approved.

The administration noted there were no outstanding issues regarding this case.

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20, I-1, and I-2; F/J-B and MTC and placing same in and establishing same as PRD 5.94; F/J-B and MTC was approved at 9:01 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Burnette, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: Council Members Cox, Engelhard, Blyth and Brown. Absent: None.

SUBJECT: Proposed Ordinance to Amend the Durham Zoning Ordinance to Clarify Issues Related to Changes to Applications [TC 88-99]

To receive citizens' comments on an "Ordinance to Amend the Durham Zoning Ordinance to Clarify Issues Related to Changes to Applications."

To adopt an "Ordinance to Amend the Durham Zoning Ordinance to Clarify Issues Related to Changes to Applications."

Mayor Tennyson opened the public hearing. No one spoke on this item.

The Mayor closed the public hearing.

A motion was made by Council Member Larson to approve the item as printed on the agenda. This motion was seconded by Mayor Pro Tempore Clement.

Council Member Blyth asked the staff to summarize the implications of this matter in terms of what will now need to come before council or will not come to council.

Dick Hails, of the City/County Planning Department, noted they were defining a middle range where there are some changes proposed but not substantial enough to make a new rezoning request.

SUBSTITUTE MOTION by Council Member Blyth seconded by Council Member Engelhard to defer this item to the Joint City County Planning Committee [item to come back before the Council within 60-90 days] was approved at 9:08 p.m. by the following vote: Ayes: Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, McKissick and Miller. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Langley, Jacobs, and Larson. Absent: None.

SUBJECT: Proposed Zoning Ordinance Amendment Regarding Interim Transit Overlay District [TC 83-99]

As this was the time and place set for the public hearing, anyone interested was given the opportunity be heard. There being no objections and/or allegations, the public hearing was

declared closed.

MOTION by seconded by Council Member Larson seconded by Council Member Miller to receive citizens' comments on an ordinance establishing an Interim Transit Overlay District; and

To adopt "An Ordinance to Amend the Durham Zoning Ordinance to Establish a Transit Overlay District" was approved at 9:09 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: Proposed Zoning Ordinance Amendment for Street Trees [TC 84D-99]

As this was the time and place set for the public hearing, anyone interested was given the opportunity be heard. There being no objections and/or allegations, the public hearing was declared closed.

A motion was made by Council Member Larson to approve the item as printed on the agenda. This motion was seconded by Council Member Miller.

Discussion was held on clarification of the wording urban growth area.

A substitute motion was made by Council Member McKissick to adopt the ordinance with an amendment stating the urban growth boundary may be amended at some future date. This motion was seconded by Council Member Blyth.

City Attorney Blinder noted he did not have a problem with the amendment regarding the urban growth boundary; however, he recommended the original version of the ordinance as printed on the agenda.

It was noted by the administration that the ordinance as printed on the agenda would address the concerns raised by Council Member McKissick regarding clarification of the urban growth boundary.

Council Member McKissick withdrew his substitute motion.

MOTION by Council Member Larson seconded by Council Member Miller to receive citizens' comments on a "Proposed Durham Zoning Ordinance Amendment for Street Trees"and

To adopt the "Proposed Durham Zoning Ordinance Amendment for Street Trees" was approved at 9:17 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: Proposed Development Ordinances Amendments for Natural Resource Protection [TC 84A-99]

To receive citizens' comments on the "Proposed Durham Development Ordinances Amendments for Natural Resource Protection", labeled Public Review Draft 4 and dated June 9, 1999.

To adopt the "Proposed Durham Development Ordinances Amendments for Natural Resource Protection TC 84A-99", labeled Public Review Draft 4 and dated June 9, 1999.

Dick Hails, of the City/County Planning Department, made a presentation on this item outlining the following: 1) Policy Basis; 2) Process; 3) Summary of the Standards; and 4) Staff Recommendations.

Jane Korest, of the City/County Planning Department, briefed council on the provisions in the ordinance.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

The following individuals spoke in support of the Natural Resource Protection ordinance amendments: Mitch Barron; Patrick Byker; Annette Montgomery; Ed Harrison and Sharon Ryan.

Also Resolutions Supporting the Durham Resource Protection Ordinance were submitted by the following organizations: Environmental Ministry Committee of the Episcopal Diocese of North Carolina; New Hope Creek Corridor Advisory Committee; Duke Park Preservation Initiative; and Durham County Inventory of Natural and Cultural Resources.

The public hearing was closed by the Mayor.

A motion was made by Council Member Larson to receive the citizens' comments and approve the Proposed Durham Development Ordinances Amendments for Natural Resource Protection. This motion was seconded by Council Member Miller.

A substitute motion was made by Council Member Engelhard to approve the Natural Resource Protection ordinance with the following amendments: 1) Floodplain Section (Parking in the floodway fringe) "no more than one-third may be used for parking and any such use shall require governing board approval," 2) Stream Buffers - "change the exemption for stream buffers from 25 acres to 20 acres;" and 3) Wetlands - "any reduction in wetland buffers from 25 to 10 feet would require governing board approval." This motion was seconded by Council Member Burnette.

Several Council Members spoke in support of the ordinance as presented by the staff.

A substitute motion to the substitute was made by Council Member Blyth to approve the Natural Resource Protection Ordinance, along with the amendments stated by Council Member Engelhard, and that all detailed development plans be grandfathered which are already approved and grading only siteplans not be grandfathered. This motion was seconded by Council Member Cox.

It was suggested that a separate vote be taken on the amendments requested by Council Members Engelhard and Blyth.

SUBSTITUTE MOTION TO THE SUBSTITUTE by Council Member Blyth seconded by Council Member Cox to amend the ordinance as follows: “that all detailed development plans be grandfathered which are already approved and grading only siteplans will not be grandfathered” **FAILED** at 10:04 p.m. by the following vote: Ayes: Council Members Cox, Miller, Brown, Engelhard and Blyth. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Langley, Burnette, McKissick, Jacobs, Larson and Griffin. Absent: None.

SUBSTITUTE MOTION by Council Member Engelhard seconded by Council Member Burnette to amend the ordinance as follows: (Parking in the Floodway Fringe) “that no more than one third may be used for parking and any such use shall require governing board approval” was approved at 10:05 p.m. by the following vote: Ayes: Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin and Miller. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Langley, McKissick, Jacobs and Larson. Absent: None.

SUBSTITUTE MOTION by Council Member Engelhard seconded by Council Member Burnette to amend Stream Buffers Section of ordinance as follows: “change the exemption for stream buffers from 25 acres to 20 acres” **FAILED** at 10:05 p.m. by the following vote: Ayes: Council Members Blyth, Brown, Burnette, Engelhard and Miller. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Langley, Cox, McKissick, Jacobs, Larson and Griffin. Absent: None.

SUBSTITUTE MOTION by Council Member Engelhard seconded by Council Member Burnette to amend Wetlands Section of ordinance as follows: “any reduction in wetland buffers from 25 to 10 feet would require governing board approval” **FAILED** at 10:06 p.m. by the following vote: Ayes: Council Members Blyth, Brown, Burnette, Engelhard, Griffin and Miller. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Langley, Cox, McKissick, Jacobs and Larson. Absent: None.

MOTION by Council Member Larson seconded by Council Member Miller to receive citizens’ comments; and

To adopt the remaining portions of the Proposed Durham Development Ordinances Amendments for Natural Resource Protection TC 84A-99 labeled Public Review Drart 4 and dated June 9, 1999 was approved at 10:09 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

At this time, the Mayor stated the Council has passed the ordinance as proposed with a change in parking in the floodway fringe.

[OTHER MATTERS]

SUBJECT: Special Olympic Presentation

MOTION by Council Member Larson seconded by Council Member Cox to receive a presentation on the Special Olympics was approved at 7:42 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson. McKissick and Miller. Noes: None. Absent At Time of Vote: Council Member Burnette.

SUBJECT: Budget Matters

a. Fiscal Year 1999-2000 City of Durham Preliminary Budget

Budget Director Laura Gill provided a revised Resolution regarding the Level of Fund Balance in the General Fund of the City of Durham Annual Budget.

MOTION by Council Member Larson seconded by Council Member Miller to receive a report from the Administration concerning changes made by the Finance Committee and Staff to the 1999-2000 Committee and Staff to the 1999-2000 City of Durham Preliminary Budget; and

To adopt a "Resolution Superseding Resolution #8472 Regarding the Level of Fund Balance in the Operating Funds of the City of Durham Annual Budget"; and

To adopt "An Ordinance Amending the Annual Base Salaries of the City Manager, the City Attorney, and the City Clerk" was approved at 10:12 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

b. Capital and Grant Project Ordinances

Budget Director Laura Gill informed council that two additional capital project ordinances are being added: 1) Tennis Court Resurfacing; and 2) Fay Street Maintenance Facility.

MOTION by Council Member Larson seconded by Council Member Miller to receive a report from the Administration concerning Capital and Grant Project Ordinances; and

To adopt certain Capital and Grant Project Ordinances as listed below was approved at 10:14 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

Capital Project Ordinances

Culture and Recreation

West Chapel Hill Road Park

Twin Lakes Park Expansion
Carolina Solite Park, Phase II
River Forest Park
Historic St. Joseph's Renovations
Tennis Court Resurfacing

General Services

Geographic Information Systems
Fleet Maintenance Parking Lot Improvements
Cemetery Account and Records System
Cemetery Road - Beechwood Section G
City Facilities Renovations
Preventive Maintenance and Building Inventory System
Fay Street Maintenance Facility

Housing and Community Development

Affordable Housing

Public Protection

Fire Training Grounds Renovations
Fire Storage Facility
Fire Facility Renovations

Transportation

Stadium Drive Extension
Traffic Calming
Downtown Thoroughfare Improvements

Water

Finished Water Storage
Future Water Supply and Water Quality Protection
Lake Michie Dam Renovations
Pitometer Water Distribution Connections
Teer Quarry Water Storage Development
Two-Inch Water Main Replacement
Water Lines Extensions and Improvements

Williams Water Treatment Plant Rehabilitation
Water Pilot Plant
Durham County Water and Sewer Lines
Brown Water Treatment Plant Rehabilitation
Brown Water Treatment Plant Expansion
Asbestos Cement Line Replacement

Water/Sewer

Sludge Treatment and Disposal System
Sewer Rehabilitation - FY 2000
Sewer Lines Extensions and Improvements - FY 2000
Sewer Pump Station Removal
North Durham Water Reclamation Facility Plant A Renovations
North Durham Water Reclamation Facility Upgrade and Expansion

Culture and Recreation

Community Family Life Recreation Center at Lyon Park
Cook Road Park
Durham Central Parkland Acquisition
Indian Trail Improvements
Park Improvements
Park Renovations
Playground Renovations
NCDOT - American Tobacco Trail
Open Space and Trails

General Services

Underground Storage Tank Removal and Replacement
Solid Waste Management Projects

Public Protection

Fire Station #14

Transportation

Federal and State Transportation Matching Projects
Martin Luther King, Jr. Parkway, Phase II
Miscellaneous Thoroughfare Improvements
North Carolina Central University Traffic and Pedestrian Signals
New Sidewalk Construction
Sidewalk Repair and Replacement
Street Capacity and Safety Improvements
Street Paving
Traffic Signal System Upgrade
Interim Amtrak Station
Multi-Modal Transportation Center

Grant Project Ordinances

Transit Section 3 Capital Grant

Transit Section 9 Capital Grant
Transit Planning Grants
Section 104(f) and Section 133(b)(3)(7) Transportation Planning Grant
Community Development Block Grant 1999-2000
HOME Consortium Program 1999-2000

c. Fiscal Year 1998-99 Budget Ordinance Amendment #6

MOTION by Council Member Larson seconded by Council Member Miller to adopt "An Ordinance Amending the 1998-99 Budget Ordinance Amendment, the Same Being Ordinance #11475"; and

To adopt "City of Durham Capital Project Ordinance concerning New Hope WWTP Decommissioning"; and

To adopt "Grant Project Ordinance Superseding Ordinance #11461 Concerning FY 1998-99 Transit Section 9 Capital Grant"; and

To adopt "Grant Project Ordinance Superseding Ordinance #11195 Concerning FY 1997-98 Transit Section 3 and Section 9 Capital Grants"; and

To adopt "Grant Project Ordinance Superseding Ordinance #10549 Concerning FY 1995-96 Transit Section 9 Capital Grant" was approved at 10:15 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

d. Fiscal Year 1998-99 Internal Service Fund Financial Plans Resolution -Housekeeping Amendment

MOTION by Council Member Larson seconded by Council Member Miller to adopt a "Resolution Amending Resolution #8474, As Amended, Establishing FY 1998-99 Financial Plans for Internal Services Funds" was approved at 10:16 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

e. Changes to the Compensation and Classification Plan

MOTION by Council Member Larson seconded by Council Member Miller to approve adjustments to the Compensation and Classification Plan as listed in the attachment was approved at 10:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

f. Changes to City Holidays

MOTION by Council Member Larson seconded by Council Member Miller to adopt an "Ordinance to Amend Section 14-16(a)(h) and (i) of the Durham City Code Relating to City Holidays" was approved at 10:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

g. 1999-2000 City of Durham Budget Ordinance

To adopt the 1999-2000 City of Durham Budget Ordinance.

A motion was made by Mayor Pro Tempore Clement to adopt the 1999-2000 City of Durham Budget Ordinance as amended: "Two cents of the fund balance be used to reduce the tax rate" provided that the level of the undesignated fund balance is not reduced below 12 percent. The motion dies for the lack of a second.

Budget Director Laura Gill informed Council of a change in the budget ordinance. She stated the Transit Trust Fund amount has been reduced by \$113,000. Ms. Gill stated there would not be a need to transfer as much money as anticipated.

A motion was made by Council Member Larson to approve the 1999-2000 City of Durham Budget Ordinance as amended. This motion was seconded by Council Member Miller.

Council Member Larson requested that the Consumer Credit Counseling Services grant be severed from the motion.

MOTION by Council Member Larson seconded by Council Member Miller to approve a grant to Consumer Credit Counseling Services in the amount of \$23,000 was approved at 10:31 p.m. by the following vote: Ayes: Council Members Langley, Cox, Burnette, McKissick, Jacobs, Miller, Engelhard and Brown. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Larson, Griffin and Blyth. Absent: None.

MOTION by Council Member Larson seconded by Council Member Miller to adopt the "1999-2000 City of Durham Budget Ordinance" as amended was approved at 10:31 p.m. by the following vote: Ayes: Mayor Tennyson and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: Mayor Pro Tempore Clement. Absent: None.

h. Resolution Establishing FY 1999-2000 Financial Plans for Internal Service Funds

MOTION by Council Member Larson seconded by Council Member to adopt a "Resolution Establishing FY 1999-2000 Financial Plans for Internal Service Funds" was approved at 10:31 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson,

McKissick and Miller. Noes: None. Absent: None.

SUBJECT: Filing Fees for Candidates to Municipal Office in the City of Durham

MOTION by Council Member Larson seconded by Council Member Miller to adopt a "Resolution Fixing the Amount of the Required Filing Fees for Candidates to Municipal Office in the City of Durham" was approved at 10:32 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

[SUPPLEMENTAL ITEM]

SUBJECT: Final Approval - North Carolina Central University (NCCU)/ Partnership Effort for the Advancement of Children's Health (PEACH) Project, Inc., Lead Hazard Control Subrecipient Grant Agreement

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a Subrecipient Grant Agreement with the NCCU/PEACH Project, Inc. in an amount not to exceed \$453,600 from Lead Hazard Control Grant Funds, and to execute related documents, and to make minor changes to the Grant Agreement and other related documents as are consistent with Lead Hazard Control Grant requirements as published by the Department of Housing and Urban Development (HUD); and

To determine and find that funds for this project are not otherwise available, wholly or in part, from public or private lenders, upon equivalent or reasonably equivalent terms and conditions was approved at 10:32 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

[ITEM PULLED FROM THE CONSENT AGENDA]

SUBJECT: Major Site Plan Approval - "Mall at Southpoint"

Steve Medlin, of the City/County Planning Department, stated that the plan presented to the City Council is consistent with the approved development plan as well as being in compliance with all zoning ordinance requirements.

Council Member McKissick spoke on sidewalks not shown on the plan along Herndon Road.

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to approve the site plan for the "Mall at Southpoint", submitted by the John R. McAdams Company, Inc., consisting of a 1,357,317 square foot regional shopping mall with 6,524 parking spaces proposed on a 141.52 acre tract, zoned SC(D), F/J-B and MTC, located on the south side of I-40, west of Fayetteville Road, east of NC 751 and north of Massey Chapel Road. (Tax Maps

525-1-8; 525-2-2, 2A, 2B, 2C, 2D, 2E, 4 and 5; 794-1-1, 2, 3, 4, 5, 6, 7 and 10; 794-2-1, 2, 3, 4, 6, 9 and 10; 794-2-7 and 8; 794-7-1-2, 3, 4, 5, 6, 7, 10, 11, 12, and 13; 794-8-1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13) was approved at 10:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson and Miller. Noes: Council Member McKissick. Absent: None.

There being no further business to come before the Council, the meeting was adjourned at 10:47 p.m.

D. Ann Gray, CMC
Deputy City Clerk

Margaret M. Bowers, CMC
City Clerk

